

Senate File 2321 - Reprinted

SENATE FILE 2321
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO SF 2111)

(As Amended and Passed by the Senate March 10, 2014)

A BILL FOR

1 An Act relating to jurisdiction over certain offenses committed
2 by members of the state military forces, and establishing
3 certain notification and reporting requirements.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29B.16, Code 2014, is amended to read as
2 follows:

3 **29B.16 Jurisdiction of courts-martial in general.**

4 1. Each force of the state military forces has court-martial
5 jurisdiction over all persons subject to this code.

6 2. Courts-martial have primary jurisdiction of military
7 offenses as defined in sections 29B.77 through 29B.116 of this
8 code.

9 Sec. 2. NEW SECTION. **29B.90A Interference with report of a**
10 **crime to civilian law enforcement.**

11 Any person subject to this code shall be punished as
12 a court-martial may direct if the person does any of the
13 following:

14 1. Interferes with or reprises against any member of the
15 state military forces who has indicated the intent to make or
16 who has made a report to civilian law enforcement of a crime
17 listed in section 29B.116A, subsection 1, where the accused and
18 the victim are subject to this code at the time of the offense.

19 2. Fails to cooperate with or obstructs a civilian law
20 enforcement investigation based upon a report in subsection 1.

21 Sec. 3. Section 29B.116, Code 2014, is amended to read as
22 follows:

23 **29B.116 General article.**

24 ~~Though~~ Subject to section 29B.116A, though not specifically
25 mentioned in this code, all disorders and neglects to the
26 prejudice of good order and discipline in the state military
27 forces and all conduct of a nature to bring discredit upon
28 the state military forces, of which persons subject to this
29 code may be guilty, shall be taken cognizance of by a general,
30 special, or summary court-martial, according to the nature and
31 degree of the offense, and shall be punished at the discretion
32 of that court. ~~However, cognizance shall not be taken of, and~~
33 ~~jurisdiction shall not be extended to, the crimes of murder,~~
34 ~~manslaughter, sexual abuse, robbery, maiming, arson, extortion,~~
35 ~~assault, burglary, or housebreaking, jurisdiction of which is~~

1 ~~reserved to civil courts.~~

2 Sec. 4. NEW SECTION. 29B.116A Jurisdiction of offenses by
3 civilian courts and notification of civilian authorities.

4 1. a. Jurisdiction under this code shall not be extended
5 to the crimes of murder, manslaughter, sexual abuse, robbery,
6 arson, extortion, assault, or burglary, jurisdiction of which
7 is reserved exclusively to civilian courts.

8 b. The term "*civilian criminal offenses*" includes all
9 offenses not defined in this code. Primary jurisdiction over
10 civilian criminal offenses shall be with civilian courts, even
11 when committed by a member of the state military forces while
12 subject to this code.

13 c. Where a civilian criminal offense and a military offense
14 defined in this code may be charged based on the same event,
15 concurrent civilian and military jurisdiction shall exist.

16 2. a. A commander, who is made aware of an allegation
17 that an offense under subsection 1, paragraph "a" or "b",
18 has been committed by a member of the state military forces
19 against another member of the state military forces while both
20 are subject to this code, shall notify local civilian law
21 enforcement authorities without delay.

22 b. (1) Regarding an allegation of sexual abuse, the
23 commander shall provide the person making the allegation with
24 written notice of the person's right to notify local civilian
25 law enforcement authorities independently, as described
26 in subsection 3. The written notice shall include contact
27 information for an appropriate civilian law enforcement
28 authority.

29 (2) Regarding an allegation of sexual abuse, the
30 commander's obligation to notify under paragraph "a" shall
31 not apply to an allegation that is a restricted report,
32 as that term is defined in federal military regulations.
33 The commander's obligation to notify under paragraph "a"
34 shall apply to an allegation of sexual abuse that is an
35 unrestricted report, as that term is defined in federal

1 military regulations. The commander's written notification
 2 under subparagraph (1) shall inform the person making an
 3 allegation of sexual abuse that if the person consents to
 4 making an unrestricted report that the person is thereby
 5 consenting to the commander notifying an appropriate civilian
 6 law enforcement authority so that such an authority may
 7 initiate an investigation or collect evidence. The commander's
 8 written notification under subparagraph (1) shall also inform
 9 the person making the allegation that if the person consents
 10 to making an unrestricted report that the person is not
 11 required to speak with civilian law enforcement investigators
 12 or otherwise participate in an investigation by a civilian law
 13 enforcement authority.

14 3. Members of the state military forces who are victims of
 15 offenses described in subsection 1 retain the right to notify
 16 local civilian law enforcement authorities independently.

17 Sec. 5. NEW SECTION. **29B.116B Adjutant general report.**

18 The adjutant general shall report annually, by January 15,
 19 to the governor and to the chairpersons and ranking members of
 20 the general assembly's standing committees on veterans affairs
 21 on the number of offenses described in section 29B.116A,
 22 subsection 1, which have reported to civilian law enforcement
 23 authorities in the prior year, if such offenses were committed
 24 by a member of the state military forces against another
 25 member of the state military forces while both are subject to
 26 this code. The report shall provide such numbers by type of
 27 offense.

28 Sec. 6. Section 803.1, subsection 1, Code 2014, is amended
 29 by adding the following new paragraph:

30 NEW PARAGRAPH. *f.* The offense is committed by a member of
 31 the state military forces against another member of the state
 32 military forces, both are in a duty status at the time of the
 33 offense, whether inside or outside the state, and the offense
 34 is one for which civil courts have jurisdiction under section
 35 29B.116A. However, for those offenses subject to both civilian

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1 and military jurisdiction, civilian jurisdiction shall not be
2 declined solely on that basis.